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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,969	01/30/2002	Robert C. Rajewski	004-55	4494

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EXAMINER

KWON, MICHAEL J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/058,969

Applicant(s)

RAJEWSKI, ROBERT C.

Examiner

Michael J. Kwon

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Marazzo.

Regarding claim 1, Marazzo shows a hydrovac unit (Fig. 1) having a chassis (Fig. 8); and a utility pole positioner 12 mounted on the chassis of the hydrovac unit.

Regarding claims 4-5, Marazzo shows a hydrovac unit having a chassis with a front and a rear, a mud tank mounted on the rear of the chassis and a cab mounted on the front of the chassis; mechanical components for the hydrovac unit being mounted on the chassis between the cab and the mud tank; and a utility pole positioner mounted on the chassis of the hydrovac unit between the cab and the mud tank and between the cab and the mechanical components. See Fig. 1-8.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marazzo in view of Buckner.

Regarding claim 2, Marazzo shows a hydrovac unit having a chassis and an internal combustion engine mounted on the chassis (Fig. 7); a hydrovac boom 9 mounted on the chassis (Fig. 7); and a utility pole positioner 12 mounted on the chassis of the hydrovac unit (Fig. 7). Marazzo differs from the claimed invention because he does not expressly show a hydraulic power supply mounted on the chassis, and the hydrovac boom and the utility pole positioner are each powered by the hydraulic power supply. Although Marazzo does not explicitly show the hydraulic power supply, it is neither unusual nor unreasonable to one of ordinary skill in the art to use a hydraulic power supply to actuate heavy equipment, as illustrated by Buckner. Applicant has not disclosed that having the hydraulic power supply mounted on the chassis solves any unique problem, or is for any particular purpose. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the apparatus of Marazzo with a hydraulic power supply mounted on the chassis as taught by Buckner in order to power the hydrovac boom and the utility pole positioner.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marazzo in view of Cahill.

Regarding claim 3, Marazzo shows a hydrovac unit having a chassis and an internal combustion engine mounted on the chassis (Fig. 7); a hydrovac boom mounted on the chassis (Fig. 7). Marazzo differs from the claimed invention because he does not expressly show a hydraulic power supply powered by the internal combustion engine; and the hydrovac boom and

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the utility pole positioner are powered by the hydraulic power supply. Cahill discloses from an analogous art a hydraulic ram mounted onto a chassis driven by an engine. Although the reference of Cahill does not specify that the engine for the chassis is an internal combustion engine, and that the hydraulic ram is powered by said internal combustion engine, it is neither unreasonable nor unusual to one of ordinary skill in the art, to assume that the chassis is driven by an internal combustion engine, and that the hydraulic pump is powered by the engine, so that the hydraulic ram can provide actuation to the hydrovac boom and the utility pole positioner. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have the hydraulic power supply powered by the internal combustion engine, and have the hydraulic power supply power both the hydrovac boom and the utility pole, so that one power supply provides enabling means for the hydrovac boom and the utility pole.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference as disclosed by Urie show a chassis with multiple heavy equipment including a hydrovac, but the references of Rinker and Rajewski show only hydrovac units on chassis. Hensler, Harmon and Hamilton references show utility pole positioner on chassis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kwon whose telephone number is 1-703-305-5310. The examiner can normally be reached on Monday - Friday, 8 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 1-703-308-3248. The fax phone numbers for the

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organization where this application or proceeding is assigned are 1-703-308-0552 for regular communications and 1-703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-1113.

MJK

October 18, 2002

A handwritten signature in cursive script that reads "Kathy Matecki".

**KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600**